

NATURE OF SERVICE: RECREATION SERVICES - SUMMER YOUTH CAMPS 2005

20

AGREEMENT
BETWEEN CITY OF MILPITAS AND THE SKYHAWKS SPORTS PROGRAMS FOR KIDS
FOR SPECIALTY CAMP SERVICES SUMMER 2005

THIS AGREEMENT is made by and between the CITY OF MILPITAS, a municipal corporation of the State of California 455 East Calaveras Boulevard, Milpitas, California (hereinafter referred to as "CITY") and the SKYHAWKS SPORTS PROGRAMS FOR KIDS (hereinafter referred to as "CONSULTANT") at Milpitas, California.

RECITALS

- A. CITY requires certain professional services for Sports camps within and without the City for various activities.
- B. CONSULTANT is qualified to perform these services and is willing to furnish them in accordance with the terms and conditions of this Agreement.

IN CONSIDERATION of the mutual covenants and conditions herein contained, the parties agrees as follows:

AGREEMENT

1. General

CITY engages CONSULTANT to perform Youth Camp services pursuant to the covenants and conditions of this Agreement, at the compensation herein stipulated, and CONSULTANT accepts the engagement upon these terms.

2. Term

This Agreement shall become effective June 27, 2005, and shall terminate on September 9, 2005, unless otherwise terminated or extended pursuant to this Agreement.

3. Scope of CONSULTANT'S Duties and Services

The scope of CONSULTANT'S duties and services is set out in Exhibit A, which is attached and incorporated by reference. These duties and services shall be completed according to the time schedule contained in Exhibit A.

4. Payment by CITY: Time and Manner of Payment

CITY shall pay CONSULTANT for all services to be rendered by it and all materials to be furnished under this Agreement, the amount specifically set forth and in the manner specifically set forth on Exhibit B, which is attached and incorporated by reference. CONSULTANT agrees to accept this sum as full compensation for all services due under this Agreement. CITY'S representative shall be responsible for obtaining a purchase order from the CITY'S Finance Department to encumber the funds for Agreement.

5. Equal Employment Opportunity

CONSULTANT shall not discriminate against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, sexual orientation, age, physical or mental disability, medical condition, marital status, or by illegal denial of family care leave.

6. Compliance with Laws

CONSULTANT shall comply with all current federal, state and city laws, statutes, ordinances, rules and regulations and the orders and decrees of any court or administrative body or tribunal in any manner affecting the performance of the Agreement.

7. Independent Contractor

CONSULTANT is acting as an independent contractor in furnishing the services or materials and performing the work required by this Agreement and is not an agent, servant or employee of CITY.

8. Indemnity

To the fullest extent permitted by law, CONSULTANT agrees to indemnify, defend with counsel reasonably acceptable to CITY, and hold harmless CITY, its officers and employees from all costs, expenses, claims, suits, judgments,

demands, causes of action, losses, liabilities or damages arising out of or in any way connected with the intentional or negligent act or omission of the CONSULTANT, CONSULTANT'S officers, employees, agents, contractors, subcontractors or any officer, agent or employee thereof, including without limitation those relating to injury or death of any person or damage to any property.

9. Insurance

a. General Liability

CONSULTANT agrees to maintain and pay for a general liability policy naming CITY, its officers, and employees as additional insured's and insuring them against liability or financial loss resulting from injuries occurring to persons or property in or about or in connection with the work to be performed under this Agreement. Each policy of insurance shall provide primary coverage on an occurrence basis in a company satisfactory to CITY in the following minimal amounts: personal injury, \$1,000,000 for each person and \$1,000,000 per occurrence, property damage, \$500,000 per occurrence. Each policy shall provide that it shall not be canceled or reduced in coverage without 30 days prior written notice to CITY. The general liability policy shall provide (a) if CITY, its officers or employees have other insurance against loss covered by said policy, said other insurance shall be excess insurance only, and (b) that CITY, its officers and employees are not precluded from claim under said policy against other insured parties.

b. Worker's Compensation

CONSULTANT agrees to comply with all State requirements relating to Worker's Compensation Insurance and to provide the same for its employees.

c. CONSULTANT shall file Certificates and Endorsements of Insurance with CITY in a form satisfactory to CITY ATTORNEY upon execution of this Agreement, evidencing said coverage and the requirements of this paragraph. The Certificates and Endorsement shall contain a reference to the date and title of this Agreement.

All of the insurance companies providing insurance for CONTRACTOR shall have an A.M. Best & Co. rating of A: VIII or above. The Certificates and Endorsements shall be mailed to:

City Clerk
City of Milpitas
455 E. Calaveras Blvd.
Milpitas, CA 95035

10. CITY Representative

Dale Flunoy shall represent CITY in all matters pertaining to the services and materials to be rendered and provided under this Agreement; all requirements of CITY pertaining to the services and materials to be rendered under this Agreement shall be coordinated through the CITY representative.

11. CONSULTANT Representative

Johan Kerkhove shall represent CONSULTANT in all matters pertaining to the services and materials to be rendered under this Agreement. All requirements of CONSULTANT pertaining to the services or materials to be rendered under this Agreement shall be coordinated through the CONSULTANT representative.

12. Notices

Unless otherwise provided herein, all notices required hereunder shall be given by United States registered and certified mail, or other form of mail which offers proof of mailing, postage prepaid and addressed to the party at the address below.

CITY: City Manager
455 E. Calaveras Blvd.
Milpitas, CA 95035

CONSULTANT: Skyhawks Sports Programs For Kids
12020 N. Mill Road
Spokane, WA 99218

13. Assignment

Neither party shall assign nor sublet any portion of this Agreement without the written consent of the other party.

14. Applicable Laws and Attorneys' Fees

This Agreement shall be interpreted and enforced pursuant to California law. Any action to enforce or interpret this Agreement shall be brought in a court of competent jurisdiction in Santa Clara County, California. Should a party for breach of this Agreement bring any legal action or to enforce any provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be affixed by the court.

15. Termination

Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY shall also have the right to terminate this Agreement for any reason upon written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be compensated in proportion to the percentage of services performed through the date of receipt of notification from CITY to terminate, unless otherwise stated on Exhibit B.

16. Entire Agreement: Amendment

This writing constitutes the entire Agreement between the parties. No modification shall be effective unless the modification is in writing and signed by all parties to this Agreement.

17. Miscellaneous

All covenants herein shall be conditions. Time shall be of the essence. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. The singular number shall include the plural, and the masculine gender shall include the feminine gender and neuter gender whenever the context of this Agreement permits. This Agreement shall be deemed to have been drafted equally by both parties.

CITY OF MILPITAS

Dated: _____

BY: _____
CITY MANAGER
Charles Lawson

ATTEST:

APPROVED AS TO FORM

BY: _____
CITY CLERK

BY: _____
CITY ATTORNEY

SKYHAWKS SPORTS PROGRAMS FOR KIDS

BY: CO. ST
SKYHAWKS REPRESENTATIVE

Exhibit A: Scope of Service
Exhibit B: Compensation Manner and Amount

EXHIBIT A
(SCOPE OF CONSULTANT'S DUTIES AND SERVICES)

Consultant will provide the following youth camp services: certified coaching staff, equipment, instructional coaching for specified camps.

ACTIVITY NAME	LOCATION	FEE R/N	Date Beg-End Time Beg-End	Ages of Participants
Mini-Hawk Multi Sport Camp	Sports Center	\$107/\$117	06/27-07/01 9am-12pm	5yrs-8yrs
Mighty Hawk Basketball	Sports Center	\$86/\$96	07/05-07/08 9am-12pm	5yrs-8yrs
Skyhawks Volleyball Camp	Sports Center	\$107/\$117	07/11-07/15 9am-12pm	9yrs-14yrs
Skyhawks Football	Sports Center	\$107/\$117	07/11-07/15 9am-12pm	7yrs-14yrs
Skyhawks Basketball Camp	Sports Center	\$130/\$140	07/18-07/22 9am-3pm	7yrs-14yrs
Skyhawks Beginning Golf	Sports Center	\$117/\$127	07/25-07/29 9am-12pm	5yrs-8yrs
Skyhawks Soccer	Sports Center	\$130/\$140	07/25-07/29 9am-3pm	6yrs-12yrs
Mighty Hawk Soccer	Sports Center	\$107/\$117	08/01-08/05 9am-12pm	5yrs-8yrs

EXHIBIT B
(COMPENSATION MANNER AND AMOUNT)

The City of Milpitas will receive 25% of all revenues and the Consultant will receive 75% of all revenues. All participants will be responsible for paying 100% of their registration fees unless they qualify for the Milpitas Recreation Assistance Program. Compensation under this agreement shall not exceed \$20,000.00, which would be the maximum of registered participants for all Skyhawks Camps offered.

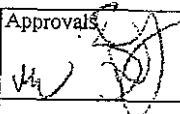
Vendor Number

City of Milpitas

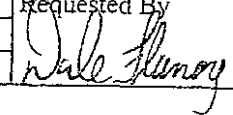
455 N. Milpitas Blvd., Milpitas, CA 95035-3153

Purchase Requisition

Page 1 of 1

Recommended Supplier / Contact / Street Address Skyhawks Sports Programs		Reason For Recommendation Preferred Vendor	Ship To City of Milpitas	Special Instructions	Approvals 	Date 7/5/2005
P.O. Box 1424			c/o Dale Flunoy 1325 E. Calaveras Blvd Milpitas, CA 95035			
City, State & Zip Code Woodland, CA 95776		Telephone (925) 829-0639	Fax # (408) 376-0988	Check Block If Attachments Are To Be Sent With P.O. <input type="checkbox"/>	Signature signifies certification that funds are available and need of services or materials are valid in this function unit or project	
Vendor Terms 30 Days	Shipping Terms	Date Placed With <u>Confirming Order</u> Number			Date Required	

Item #	Quantity	Unit of Measure	Description	Unit Price	Extended Price	GL Code
1			Services and staff for youth summer sports camps		\$24,000.00	100-101-4237
2						
3						
4						
5						
6						
7						
8						

Justification or Intended Use of Goods or Services	Sub Total	\$24,000.00	Requested By 	Date 7/5/2005
	Tax			
	Freight	\$0.00		
	Total	\$24,000.00		

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/09/2005

PRODUCER (509)325-3024 FAX (509)325-1803
McLoney, O'Neill, Corkery & Jones, Inc.
1206 N Lincoln, Suite #200
Spokane, WA 99201
Jan Fenton

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED Skyhawks Sports Academy Inc et al
PO Box 18529
Spokane WA 99228

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: Philadelphia Indemnity Ins Co A+ Rated
INSURER B: American States Insurance Co A Rated
INSURER C:
INSURER D:
INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		GENERAL LIABILITY	PHPK109592	02/08/2005	02/08/2006	EACH OCCURRENCE \$ 1,000,000
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
		<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person) \$ Excluded
		GEN'L AGGREGATE LIMIT APPLIES PER:				PERSONAL & ADV INJURY \$ 1,000,000
		<input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				GENERAL AGGREGATE \$ 3,000,000
						PRODUCTS - COM/OP AGG \$ 3,000,000
B		AUTOMOBILE LIABILITY	01CG2941702	02/08/2005	02/08/2006	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
		<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$
		<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
		<input checked="" type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
		<input checked="" type="checkbox"/> HIRED AUTOS				
		<input checked="" type="checkbox"/> NON-OWNED AUTOS				
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
		<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC \$
						AUTO ONLY: AGG \$
A		EXCESS/UMBRELLA LIABILITY	PHUB041482	02/08/2005	02/08/2006	EACH OCCURRENCE \$ 3,000,000
		<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$ 3,000,000
		<input type="checkbox"/> DEDUCTIBLE				\$
		RETENTION \$				\$
						\$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATUTORY LIMITS \$
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				OTH-ER \$
		If yes, describe under SPECIAL PROVISIONS below				E.L. EACH ACCIDENT \$
						E.L. DISEASE - EA EMPLOYEE \$
						E.L. DISEASE - POLICY LIMIT \$
B		OTHER Excess Auto Liability	01XS141568	02/08/2005	02/08/2006	\$1,000,000 Each Occurrence \$1,000,000 Aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
Certificate holder is added as additional insured as respects to general liability arising out of operations of the named insured per insuring form CG2026.

CERTIFICATE HOLDER

Milpitas Recreation
1325 E Calaveras Blvd
Milpitas, CA 95035

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
Jan Fenton/GEJ

Jan Fenton

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

02/08/2005

PRODUCER (509)325-3024 FAX (509)325-1803

MoToney, O'Neill, Corkery & Jones, Inc.

1206 N Lincoln, Suite #200

Spokane, WA 99201

Jan Fenton

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED Skyhawks Sports Academy Inc
PO Box 18529
Spokane, WA 99228

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: Security Ins Co of Hartford

INSURER B:

INSURER C:

INSURER D:

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADD'L	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
		GENERAL LIABILITY				EACH OCCURRENCE \$
		COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence) \$
		CLAIMS MADE <input type="checkbox"/> OCCUR <input type="checkbox"/>				MED EXP (Any one person) \$
		GEN'L AGGREGATE LIMIT APPLIES PER:				PERSONAL & ADV INJURY \$
		POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/>				GENERAL AGGREGATE \$
		AUTOMOBILE LIABILITY				PRODUCTS - COMPI/OP AGG \$
		ANY AUTO				COMBINED SINGLE LIMIT (Ea accident) \$
		ALL OWNED AUTOS				BODILY INJURY (Per person) \$
		SCHEDULED AUTOS				BODILY INJURY (Per accident) \$
		HIRED AUTOS				PROPERTY DAMAGE (Per accident) \$
		NON-OWNED AUTOS				AUTO ONLY - EA ACCIDENT \$
		GARAGE LIABILITY				OTHER THAN AUTO ONLY: EA ACC \$
		ANY AUTO				AGG \$
		EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE \$
		OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/>				AGGREGATE \$
		DEDUCTIBLE				\$
		RETENTION \$				\$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/>
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT \$
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE \$
A		OTHER Excess Accident Medical	120-193-596N	02/08/2005	02/08/2006	E.L. DISEASE - POLICY LIMIT \$
						\$25,000 Medical Maximum
						\$10,000 AD+D
						\$5,000 Dental Max \$100 Deduct

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Insurance is provided as noted above with respects to operations of the named insured.

CERTIFICATE HOLDER

Milpitas Recreation
1325 E Calaveras Blvd
Milpitas, CA 95035

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Gregory D. Born

Gregory D Born

©ACORD CORPORATION 1988